

# **HR-221 Construction and Maintenance Practices to Minimize the Potential Liability of Counties for Roads in Rural Subdivisions**

**Key Words:** Liability, Tort claims, Construction and maintenance practices

## **ABSTRACT**

In an earlier research project, HR-204, the magnitude and nature of highway related tort claims against counties in Iowa were investigated. However, virtually all of the claims identified in that research resulted from incidents that occurred in areas with predominantly agricultural land use. With recent increases in the rural non-farm population, many traditionally urban problems are also appearing in built-up areas under county jurisdiction. This trend is expected to continue so that counties must anticipate a change in the nature of the tort claims they will encounter. Problems that heretofore have been unique to cities may become commonplace in areas for which counties are responsible. The research reported here has been directed toward an investigation of those problems in rural subdivisions that lead to claims growing out of the provision of highway services by counties.

Lacking a sufficient database among counties for the types of tort claims of interest in this research, a survey was sent to 259 cities in Iowa in order to identify highway related problems leading to those claims. The survey covered claims during a five year period from 1975 to 1980.

Over one-third of the claims reported were based on alleged street defects. Another 34 percent of the claims contained allegations of damages due to backup of sanitary sewers or defects in sidewalks.

By expanding the sample from the 164 cities that responded to the survey, it was estimated that a total of \$49,000,000 in claims had been submitted to all 259 cities. Over 34 percent of this amount resulted from alleged defects in the use of traffic signs, signals, and markings. Another 42 percent arose from claims of defects in streets and sidewalks. Payments in settlement of claims were about 13.4 percent of the amount asked for those claims closed during the period covered by the survey. About \$9,000,000 in claims was pending on June 30, 1980, according to the information furnished.

Officials from 23 cities were interviewed to provide information on measures to overcome the problems leading to tort claims. On the basis of this information, actions have been proposed that can be undertaken by counties to reduce the potential for highway-related claims resulting from their responsibilities in rural subdivisions and unincorporated communities. Suggested actions include the eight recommendations contained in the final report for the previous research under HR-204. In addition, six recommendations resulted from this research, as follows:

1. Counties should adopt county subdivision ordinances.
2. A reasonable policy concerning sidewalks should be adopted.

3. Counties should establish and implement a system for setting road maintenance priorities.
4. Counties should establish and implement a procedure for controlling construction or maintenance activities within the highway right of way.
5. Counties should establish and implement a system to record complaints that are received relating to highway maintenance and to assure timely correction of defective conditions leading to such complaints.
6. Counties should establish and implement a procedure to ensure timely advice of highway defects for which notice is not otherwise received.